

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF MISSISSIPPI
JACKSON DIVISION**

ALLSTATE INSURANCE COMPANY

PLAINTIFF

VS.

CIVIL ACTION NO. 3:05CV669LS

**FRANK MELTON, EARL PIERCE
and JIMMY SAXTON**

DEFENDANTS

ORDER

This matter came before the court on further review of the issues raised by Defendant Jimmy Saxton in the Motion for Protective Order that was included as part of his response to Allstate Insurance Company's Motion to Compel the Deposition of Jimmy Saxton. Saxton is a Plaintiff in a state court case against Frank Melton, and he argues that Allstate participated in that litigation through the attorney it hired to represent Melton. Saxton further argues that the coverage question at issue here stems from the facts on which the state case is based. Saxton asserts, therefore, that the discovery that has taken place in the state court litigation should have satisfied Allstate's need for information from him. Alternatively, Saxton argues that any deposition that he gives should be limited to new information and that the allegations contained in the amended complaint that he filed in state court should not be re-visited.

Allstate argues that this is a separate action, based on the duty to indemnify Melton rather than the duty to defend him. In an Order entered on Allstate's Motion to Compel, the court agreed that Allstate, which was not a party to the state court litigation, ought to be permitted to depose Saxton in this case. Further review of Saxton's arguments does not change that ruling. Moreover, the court is of the opinion that attempting to limit the scope of the questioning would likely complicate the deposition and lengthen it far beyond the time it would take to simply conduct an

open deposition. That being said, however, the court expects counsel for Allstate to conduct this deposition in good faith, to seek only information relevant to this lawsuit, and to avoid harassing any deponent with questions that are unnecessary to the issues before this court.

IT IS, THEREFORE, ORDERED that the Motion for Protective Order submitted by Defendant Jimmy Saxton is hereby **denied**.

IT IS SO ORDERED, this the 27th day of July, 2006.

S/James C. Sumner
UNITED STATES MAGISTRATE JUDGE